

Individual State Agency Fiscal Note

Bill Number: 1863 HB	Title: Aquatic land surveys/payment	Agency: 490-Department of Natural Resources
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
Account					
Resource Management Cost Account-State 041-1	0	500,000	500,000	1,000,000	1,000,000
Total \$	0	500,000	500,000	1,000,000	1,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

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Agency Approval: Angela Konen	Phone: 360-902-2165	Date: 01/15/2024
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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1 of the bill amends RCW 79.105.120 to prohibit the Department of Natural Resources (DNR) from requiring a current or prospective lessee to pay for a survey of State-Owned Aquatic Lands (SOAL). Although this statute would not prohibit DNR from requiring surveys, it does not specify who would be responsible for paying for a survey of SOAL.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

DNR's Aquatic Resources Division (Aquatics) requires land surveys to satisfy the statute of frauds (RCW 62A.2A-201) which holds that a lease contract is unenforceable if a description of leased goods is insufficient. The surveys also ensure that the agreement boundaries include only SOAL, avoid conflicts with adjacent properties, help DNR calculate precise rents, and allows for an accurate inventory of the nature, size, and location of uses on SOAL.

While there is no statute that directs a survey be completed, DNR requires them to ensure the lands being leased are sufficiently described so the leases we enter into are enforceable. Without a survey, a lease may be unenforceable under the statute of frauds, RCW 62A.2A-201(1), that holds:

(1) A lease contract is not enforceable by way of action or defense unless:

(a) The total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars; or

(b) There is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

(2) Any description of leased goods or of the lease term is sufficient and satisfies subsection (1)(b) of this section, whether or not it is specific, if it reasonably identifies what is described.

Although the bill does not prohibit Aquatics from requiring surveys, nor does it require Aquatics to pay for the surveys, DNR cannot enter into leases without first completing a valid survey. Prohibiting DNR from requiring prospective lessees to pay for the cost of surveys may require DNR to bear the cost of surveys in order to enter into leases. Currently, the surveys are conducted by 3rd parties and the cost of the surveys are paid for by the current and prospective lessees.

This fiscal note assumes DNR would bear the cost for surveys of SOAL in the process of leasing. Generally, surveys cost between \$5,000 and \$10,000, depending on location and complexity. The fiscal impacts from this bill are indeterminate as it creates ambiguity regarding requiring surveys and who would pay for them. However, with roughly 90 new agreements signed each year, should aquatics have to begin paying for surveys, costs could easily exceed \$500,000 per year. DNR does not have the internal capacity to conduct the surveys and would require a contract.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
041-1	Resource Management Cost Account	State	0	500,000	500,000	1,000,000	1,000,000
Total \$			0	500,000	500,000	1,000,000	1,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts		500,000	500,000	1,000,000	1,000,000
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	0	500,000	500,000	1,000,000	1,000,000

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.